

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

ROBERT CURTIS WILLIAMS,

Petitioner,

vs.

Civ. No. 97-1176 BB/LCS

RONALD LYTTLE, Warden, et al.,

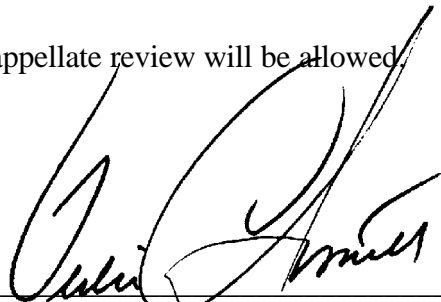
Respondents.

**MAGISTRATE JUDGE'S PROPOSED FINDINGS**  
**AND RECOMMENDED DISPOSITION**

This matter comes before the Court *sua sponte*. On October 20, 1997, this Court granted the Respondents' request for an extension of time to file their answer to the 28 U.S.C. §2254 petition on October 31, 1997. Then on November 17 the Court granted the Respondents a second extension of time. On December 4, 1997, the Court granted the Respondents a third extension of time until December 5, 1997. After the Respondents failed to file their answer on December 5, 1997, this Court entered an Order to Show Cause on December 15, 1997. The Respondents then filed a fourth motion for extension of time until January 2, 1998. The Court granted the motion and so quashed the Order to Show Cause on December 30, 1997. The January 2, 1998 deadline has passed and the Respondents have to date not answered the petition. Considering the ample opportunity this Court has provided the Respondents to answer the petition, it is now incumbent upon the Court to consider releasing the Petitioner on his own recognizance until the Respondents answer the petition. **See Pfaff v. Wells**, 648 F.2d 689, 693 (10th Cir. 1981)(Court has inherent power to set bail pending decision of habeas corpus

case)(cited in **Johnson v. Nelson**, 877 F.Supp. 569, 570 (D.Kan. 1995)). Time is of the essence when the writ of habeas corpus is at issue. **See, e.g., Braden v. 30th Judicial Circuit Court of Kentucky**, 410 U.S. 484, 490 (1973).

For the reasons stated above, I recommend that conditions of release be set following a hearing for determination of the same. Timely objections to the foregoing may be made pursuant to 28 U.S.C. §636(b)(1)(C). Within ten days after a party is served with a copy of these proposed findings and recommendations that party may, pursuant to §636(b)(1)(C), file written objections to such proposed findings and recommendations. A party must file any objections within the ten day period allowed if that party wants to have appellate review of the proposed findings and recommendations. If no objections are filed, no appellate review will be allowed.



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Leslie C. Smith  
UNITED STATES MAGISTRATE JUDGE